

Message Text

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ACTION EB-08

INFO OCT-01 EA-07 ISO-00 CAB-02 CIAE-00 COME-00 DODE-00

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FM AMEMBASSY MANILA

TO SECSTATE WASHDC PRIORITY 6682

INFO AMEMBASSY SINGAPORE

C O N F I D E N T I A L MANILA 3175

DEPT PASS WHITE HOUSE

E.O. 11652: GDS

TAGS: EAIR, RP

SUBJECT: CIVAIR: CAB ORDER DISAPPROVING PAL APPLICATION

REF: STATE 046404

1. THE CAB ORDER TRANSMITTED BY REFTEL IS A DECIDELY EMBARRASSING DOCUMENT, ESPECIALLY SINCE IT IS ONE WHICH IS NOMINALLY PREPARED FOR PRESIDENTIAL REVIEW. INSTEAD OF BEING AN OBJECTIVE FINDING BY A QUASI-JUDICIAL BOARD, IT IS A SUBJECTIVE ADVOCACY PLEA OF INDIFFERENT PROFESSIONAL QUALITY.

2. FOR EXAMPLE, IN REFERRING TO THE 1974 AVIATION ARRANGEMENT WITH THE PHILIPPINES, THE ORDER STATES THAT THE "ARRANGEMENT PROVIDES AN OPTION FOR PAL TO APPLY TO THE CAB TO OPERATE THREE WEEKLY ALL-CARGO SERVICES." THE ACTUAL LANGUAGE OF THE 1974 NOTE STATES THAT "THE GOVERNMENT OF THE UNITED STATES OF AMERICA OFFERS PHILIPPINE AIRLINES THE OPTION TO BE EXERCISED WHEN DESIRED TO OPERATE THREE ADDITIONAL ROUND TRIPS..." ETC. THIS IS A SIGNIFICANT AND MISLEADING OMMISSION FROM THE TEXT OF THE ORDER.

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3. FURTHERMORE, IN DESCRIBING IN SOME DETAIL THE PROBLEMS PAN AM HAS EXPERIENCED IN OBTAINING AN ALL-CARGO SERVICE, THE ORDER SPEAKS OF CERTAIN PAN AM "ALL-CARGO SERVICES WHICH WERE IN OPERATION PUSUANT TO AN AUTHORIZATION WHICH HAD BEEN GRANTED BY THE PHILIPPINE GOVERNMENT PRIOR TO THE NEGOTIATION OF THE AUGUST 1974 INTERIM AGREEMENT.Z

IT NEGLECTS TO POINT OUT THAT THESE SERVICES WERE THREE MILITARY CARGO FLIGHTS A WEEK FOR THE BENEFIT OF THE UNITED STATES GOVERNMENT, WHICH AD NO NEED FOR THEM AT THE END OF THE VIET-NAM HOSTILITIES, AND THAT THE SERVICES SOUGHT WERE OF AN ENTIRELY DIFFERENT NATURE.

4. DUE TO THE TENDENTIOUS NATURE OF THIS ORDER, IT IS CERTAIN TO BE SHARPLY ATTACKED BY LAWYERS FOR PAL IF AND WHEN IT IS TESTED IN A COURT OF LAW. IT IS NOT RPT NOT THE SORT OF PAPER WHICH SHOULD BE SENT TO THE PRESIDENT AND THERE SHOULD BE SOME MECHANISM INTRODUCED TO PROTECT THE PRESIDENT FROM HAVING TO TAKE POSITIONS ON DISTORTED INFORMATION OF THIS SORT.

5. MOREOVER, THERE SEEMS TO BE SOME CONFUSION OF ROLES HERE. THE CAB IS EMPLOWERED TO ACT ON APPLICATIONS FOR SERVICE AND OTHERWISE TO PROTECT THE PUBLIC INTEREST IN CIVIL AVIATION MATTERS. BUT IT WOULD NOT RPT NOT SEEM THE PROPER PROVINCE OF A CAB ORDER TO MAKE A DETERMINATION OF THE PERFORMANCE OF A FOREIGN STATE UNDER TERMS OF AN INTERNATIONAL AGREEMENT. THIS CAB ORDER PRETENDS TO FIND THAT THE "PHILIPPINE GOVERNMENT HAS BREACHED THE PROVISIONS OF THE 1974 INTERIM ARRANGEMENT" AND IT REFERS TO "SUCH VIOLATIONS" AS THE GROUND FOR DISAPPROVING THE PAL ALL-CARGO APPLICATIONS. IT IS DOUBTFUL THAT CAB IS COMPETENT TO MAKE SUCH CONCLUSIONS.

6. IN SHORT, THIS WHOLE EXERCISE DEMONSTATES THE CRYING NEED FOR A WHITE HOUSE REVIEW OF INTERNATIONAL AVAIATIN
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POLICY TO PLACE IT IN THE CONTEXT OF OUR LARGER FOREIGN POLICY INTERESTS AND REDRESS A SITUATION IN WHICH THE INTERESTS OF THE UNITED STATES GOVERNMENT AND THE UNITED STATES TRAVELIING PUBLIC CAN BE PUT IN JEOPARDY BY ACTIONS OF AN INDENPENDENT AGENCY RESPONDING TO THE INTERESTS OF ITS COMMERCIAL CLINET. IN THE KENNEDY ADMINISTRATION, AN AVIATION POLICY MECHANISM WAS ESTABLISHED TO ASSURE RESPONSIBLE INTERNATIONAL AVIATION CONTROLS. THAT MECHANISM HAS SINCE BEEN ABOLISHED. PERHAPS THIS ADMINISTRATION SHOULD EXAMINE THE DESIRABILITY OF ITS REINSTITUTION.
SULLIVAN

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